

§ 240.7

31 CFR Ch. II (7–1–06 Edition)

(f) If a Federal Reserve Bank debits a financial institution's reserve account as a result of an erroneous declination, Treasury will promptly refund the amount of the payment.

§ 240.7 Declination protest.

(a) *Who may protest.* Only a presenting bank may protest the declination of a check that it has presented to a Federal Reserve Bank for payment.

(b) *Basis for protest.* Where Treasury, in accordance with § 240.6, has made a declination of a check presented for payment and a Federal Reserve Bank has reversed its provisional credit to the presenting bank, the presenting bank may file a protest challenging the factual basis for such declination. Protests may be filed challenging the following determinations:

(1) *Counterfeit checks.* The presenting bank may offer evidence that the check is not a counterfeit.

(2) *Altered checks.* The presenting bank may offer evidence that the check is not altered.

(3) *Checks bearing forged or unauthorized drawer's signatures.* The presenting bank may offer evidence that the drawer's signature was authentic or was authorized.

(4) *Checks bearing a forged or unauthorized indorsement.* The presenting bank may offer evidence that an indorsement on the back of the check was not forged or was otherwise authorized in accordance with the requirements of §§ 240.13 through 240.17.

(5) *Prior presentment.* The presenting bank may offer evidence that the check or a paper or electronic representation thereof has not already been presented to, and paid by, Treasury.

(6) *Adequacy of substitute check or electronic check.* The presenting bank may offer an original check or a copy of the check that is sufficient to support a determination that the check does not contain a material defect or alteration.

(c) *Procedures for filing a protest.* A declination protest must be in writing, and must be sent to: Department of the Treasury, Financial Management Service, Branch Manager, Financial Processing Division, Check Reconciliation Branch, Room 700-A, 3700 East-West Highway, Hyattsville, MD 20782, or to

such other address as Treasury may publish in the Treasury Financial Manual, which can be found at <http://www.fms.treas.gov>. Treasury will not consider any protest unless it is received within 90 days from the declination date.

(d) *Review of a declination protest.* The Director, Financial Processing Division, or an authorized designee, will make every effort to decide any protest properly submitted under this section within 60 days, and will notify the presenting bank of Treasury's decision. In those cases where it is not possible to render a decision within 60 days, the Director, Financial Processing Division, or an authorized designee, will notify the presenting bank of the delay. Neither the Director, Financial Processing Division, nor an authorized designee, will have any involvement in the decision to deny payment of a check under § 240.6 of this part.

(1) If, based on the evidence provided, the Director of the Financial Processing Division, or an authorized designee, finds that the presenting bank has met, by a preponderance of the evidence, the criteria in paragraph (b) of this section, Treasury will reverse its decision to decline payment on the check by directing a Federal Reserve Bank to provide credit in the amount of the check to the presenting bank.

(2) If, based on the evidence provided, the Director of the Financial Processing Division, or an authorized designee, finds that the presenting bank has failed to meet, by a preponderance of the evidence, the criteria in paragraph (b) of this section, the declination will not be reversed.

§ 240.8 Reclamation of amounts of paid checks.

(a) If, after making final payment in accordance with § 240.6, Treasury determines that any guarantor has breached a presentment guarantee listed in § 240.4, the guarantor shall be liable to Treasury for the full amount of the check payment. Treasury may reclaim the amount of the check payment from any such guarantor prior to:

(1) The end of the 1-year period beginning on the date that a check is processed for payment by a Federal Reserve Processing Center; or